

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
REPLY BRIEF**

76-7039

UNITED STATES COURT OF APPEALS
FOR THE SECOND JUDICIAL CIRCUIT

REPLY BRIEF

BISWANATH HALDER,

Plaintiff - Appellant, DOCKET 76-7039

- against -

OVIS RENT-A-CAR SYSTEM, INC.,

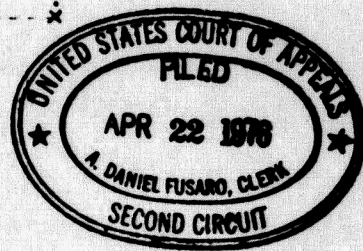
AFFIDAVIT

Defendant - Appellee:

STATE OF NEW YORK)

: ss :

COUNTY OF QUEENS)



BISWANATH HALDER BEING DULY SWORN,
DEPOSES AND SAYS :

I, I, THE APPELLANT IN THE ABOVE
CAUSE OF ACTION, AM ENTIRELY FAMILIAR
WITH ALL THE FACTS INVOLVED IN AND THE
BACKGROUND OF THIS PROCEEDING, AND I
SUBMIT THIS AFFIDAVIT IN FURTHER SUPPORT
OF THE APPELLANT'S INSTANT APPEAL, URGING
THE REVERSAL OF THE LOWER COURT'S DECISION
ON THE GROUND OF "ABUSE OF DISCRETION"
BY THE TRIAL JUDGE IN DENYING A PRELIMINARY

INJUNCTION, ENJOINING THE UNLAWFUL EMPLOYMENT POLICIES AND PRACTICES OF THE APPELLEE.

2. THE DEFENDANT - APPELLEE'S PART I OF THE ARGUMENT IS NOTHING BUT A WORD FOR WORD REPETITION OF THE DEFENDANT'S MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION, DATED DECEMBER 3, 1975.

THE PLAINTIFF - APPELLANT HAS FULLY ANSWERED THE SAID MEMORANDUM IN THE HOLDER AFFIDAVIT OF DECEMBER 15, 1975.

THEREFORE, THE APPELLANT DOES NOT DEEM IT IMPORTANT TO ADD ANYTHING NEW TO THE PART I OF THE APPELLEE'S ARGUMENT.

3. THE ONLY POINT WORTHY OF REPLY IS THAT BY RECITING THE AFFIDAVIT OF NOTORIOUS PERJURER DANIEL P. MCCONNELL OVER AND OVER AND OVER AGAIN IN SUPPORT OF THE APPELLEE'S CLAIM THAT THE APPELLANT IS AN UNDERQUALIFIED PROGRAMMER, THE APPELLEE IS TRYING TO ESTABLISH THAT A LAWSUIT IS NOT A SEARCH FOR TRUTH — IT IS A BATTLE OF DECEPTION.

4. AS TO PART II OF THE APPELLEE'S BRIEF CONCERNING THE INTERPRETATION OF THE STATUTE,

8 USCA 1153(2)(3). THE APPELLEE'S INTERPRETATION CLEARLY CONTRADICTS THAT OF THE EXECUTIVE BRANCH OF THE UNITED STATES GOVERNMENT.

IN THE INSTRUCTIONS FOR COMPLETION OF APPLICATION FOR ALIEN EMPLOYMENT CERTIFICATION — JOINTLY DEVELOPED BY THE DEPARTMENT OF LABOR, THE DEPARTMENT OF JUSTICE, AND THE DEPARTMENT OF STATE — THE UNITED STATES GOVERNMENT REQUIRES THAT CERTAIN ALIENS, INCLUDING THE ONES WHO ARE MEMBERS OF THE PROFESSIONS OR WHO HAVE EXCEPTIONAL ABILITY IN THE SCIENCES OR ARTS, "SEEKING ADMISSION TO THE UNITED STATES AS IMMIGRANTS, . . . IN ORDER TO PERFORM GAINFUL EMPLOYMENT, A CERTIFICATION FROM THE SECRETARY OF LABOR IS REQUIRED . . . TO THE EFFECT THAT QUALIFIED WORKERS ARE NOT AVAILABLE IN THE UNITED STATES SIMILARLY EMPLOYED." HALDER AFFIDAVIT OF 08-25-1975, EXHIBIT M 2.

5. IN A DESPERATE AND MALICIOUS ATTEMPT TO COVER UP ITS DISCRIMINATORY EMPLOYMENT POLICIES AND PRACTICES, THE APPELLEE HAS AGAIN MENTIONED THAT THE UNEMPLOYMENT RATE HAS INCREASED DRASTICALLY SINCE 1970.

SEE ALSO MENG AFFIDAVIT OF 07-03-1975,
PAGE 4, PARA 5 & MENG AFFIDAVIT OF
07-31-1975, PAGE 8, PARA 8.

THE APPELLANT MAY AGAIN RESPECTFULLY
POINT OUT THAT AT ISSUE HERE IS NOT THE
ENTIRE UNITED STATES ECONOMY, BUT THE JOB
MARKET FOR COMPUTER PROGRAMMERS. AT A TIME
WHEN 7.5 MILLION WERE OUT OF WORK, ONE
MILLION JOBS WERE GOING BEGGING, INCLUDING
THAT OF ELECTRICAL ENGINEERS AND COMPUTER
PROGRAMMERS. HALDER AFFIDAVIT OF 08-25-1975,
PAGES 14-6, PARA 6B.

6. FINALLY, IN ANOTHER WELL-CALCULATED
ATTEMPT TO DISCREDIT THE APPELLANT, THE
APPELLEE CONTENDS THAT THE APPELLANT'S
RESUME SHOWS A TOTAL LACK OF CAREER
ORIENTATION, WORK HISTORY, AND JOB
STABILITY.

THE APPELLANT MAY AGAIN RESPECTFULLY
POINT OUT THAT HE HOLDS A BACHELOR'S
DEGREE IN ELECTRICAL ENGINEERING FROM
THE UNIVERSITY OF CALCUTTA, AND BEFORE
HE ENTERED THE UNITED STATES, HE HAD
EXPERIENCE IN WRITING DIAGNOSTIC PROGRAMS
— PROGRAMS TO DIAGNOSE COMPUTER

MALFUNCTIONING — FOR TWO YEARS WITH TWO OF THE FIVE LARGEST COMPUTER MANUFACTURERS OF THE WORLD.

SINCE THE APPELLANT CAME TO THE LAND OF OPPORTUNITY, HE HAD TWO JOBS WITH TWO COMPUTER CONSULTING FIRMS — TWO DELAWARE CORPORATIONS. THE LIFE SPAN OF BOTH THOSE DELAWARE CORPORATIONS RANGE FROM A FEW MONTHS TO A LITTLE OVER A YEAR.

THE APPELLANT LEFT HIS FIRST JOB VOLUNTARILY BECAUSE HE REPEATEDLY FAILED TO PERSUADE HIS EMPLOYER TO ABIDE BY THE LAW OF THE LAND — THAT A NON-WHITE AND A NON-CITIZEN HAS THE RIGHT TO BE COMPENSATED EQUALLY AS THE WHITE CITIZEN.

THE SECOND EMPLOYER DISMISSED HIM UNJUSTIFIABLY — VIDE OPINION OF JUDGE THEODORE D. ROSENBERG OF SUPERIOR COURT OF NEW JERSEY. DOCKET # L 27478 - 70.

THE TIME THE APPELLANT ENTERED THE UNITED STATES, HIS CAREER ORIENTATION, WORK HISTORY, AND JOB STABILITY WERE EXCELLENT. BUT UNFORTUNATELY THIS CORRUPT AND REPRESSIVE SYSTEM HAS NOT ONLY DESTROYED HIS CAREER, BUT HAS THREATENED

HIS VERY EXISTENCE.

WHEREFORE, THE APPELLANT RESPECTFULLY REQUESTS THAT JUDGE NISHLER'S "ABUSE OF DISCRETION" IN DENYING THE PLAINTIFF-APPELLANT'S APPLICATION FOR A PRELIMINARY INJUNCTION, SHOULD BE REVERSED.

Biswanath Halder

BISWANATH HALDER

SWORN TO BEFORE ME THIS SEVENTEENTH DAY
OF APRIL, 1976.

MURIS SHAW
NOTARY PUBLIC, State of New York
No. 41-8948825

Qualified in Queens County
Term Expires March 30, 1978

Muris Shaw

UNITED STATES COURT OF APPEALS
FOR THE SECOND JUDICIAL CIRCUIT

.....X
BISWANATH HALDER,

Plaintiff - Appellant, Docket No. 76 7039
- against -

AVIS RENT-A-CAR SYSTEM, INC.; CERTIFICATE OF SERVICE

Defendant - Appellee.
.....X

THE UNDERSIGNED HEREBY CERTIFIES THAT
ON APRIL 21, 1976 HE SERVED A TRUE COPY
OF THE FOREGOING AFFIDAVIT UPON MEYER,
ENGLISH & ZIANZULLI, ATTORNEYS FOR DEFENDANT-
APPELLEE, 160 MINEOLA BOULEVARD, MINEOLA,
NEW YORK 11501, BY UNITED STATES MAIL,
POSTAGE PREPAID.

Biswanath Halder
Appellant Pro Se

BISWANATH HALDER
173 17 65 AVENUE
FRESH MEADOWS, NY 11365
TELEPHONE : 212 - 539 - 2305

DATED : Queens, New York
APRIL 21, 1976